

History of Tax – 25 February 2020

There was a full house for the February History of Tax meeting on the subject of “Landmark cases in revenue law”. The excellent session covered two of the twenty cases covered in the splendid book of the same title edited by John Snape and Dominic de Cogan.

Professor Martin Daunton and Professor Michael Braddick covered *Thomas Gibson Bowles v The Bank of England (1913)* and *R v Hampden (1637)* respectively. These cases were separated by almost three hundred years but the link between the cases was the legality of taxation, and Martin questioned whether Thomas Gibson Bowles was really a “modern John Hampden”.

R v Hampden (the “ship money” case) is often considered to deal with non-Parliamentary taxation. However, Michael explained the case is more properly concerned with prerogative discretion in emergency conditions. Specifically, the tendency in the decades prior to 1640 towards monetisation of services which, in the case of ship money, meant the introduction of a national levy by the King to support the acquisition of fighting ships, as an alternative to requiring maritime towns to provide ships. John Hampden challenged ship money in court, questioning whether the King had the power to charge Buckinghamshire to fund ships, whether the sheriff had the power to assess the levy, and whether any unpaid assessed charges could be recovered as a debt. Although the case was found for the King, ship money was abolished in 1641.

Thomas Gibson Bowles, a sometime politician remembered today as the founder of The Lady (and grandfather of the Mitford sisters), challenged the right of the Bank of England to deduct supertax at source from Government bonds, before the relevant legislation had been enacted. Whilst the Bank relied on the resolution of the Committee of Ways and Means as authority to deduct tax, the court found that the resolution was insufficient authority for the collection of tax not yet imposed by statute. The Government’s response was to pass the Provisional Collection of Taxes Act 1913. Whether Gibson Bowles was a modern John Hampden was considered at the time, but whilst Hampden had acted on a fundamental principle, to protect his property from the Crown, Gibson Bowles had deliberately bought stock liable to taxation, and used a procedural flaw for partisan purposes.

The next History of Tax event is on 27 October when Andrew Loader will speak on “Paying for the Renaissance”.

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